

**Probate Committee
Judicial Conference of Indiana**

**June 4, 2010
Minutes**

1. Members present. David Bolk, Daniel Burke, Robert Freese, Thomas Milligan, David Northam, Susan Orr Henderson, chair.
2. Staff assistance. Michelle C. Goodman provided the Committee with staff assistance.
3. Guests. Jeffrey Weiss, State Court Administration.
4. Approval of minutes. The Committee unanimously approved the minutes from the February 2010 meeting.
5. Feedback from Judicial Conference education session. The guardianship session was well received and we received a very positive feedback on the session.
6. Discussion of Will Contest/Statistical reporting. Jeff Weiss, State Court Administration, came to discuss will contests and statistical reporting issues with the Committee. The Committee discussed the fact that the will contest is a separate proceeding and not part of the administration of the estate. The Committee discussed the proper way to handle will contests and contested claims. They reviewed Robinson v. Estate of Robinson, 587 N.E.2d 683. In discussing contested claims, the Committee discussed the issue of fees associated with these proceedings and the language of IC 29-1-14 and a 1949 Attorney General Opinion regarding docket fees on contested claims. After discussion, the Committee agreed that the will contests should be filed under a separate cause number and that the quarterly statistics instructions would need to reflect this as well. They agreed that more study needed to be done on the contested claim fee issue.
7. Innovations in Probate. The Guardianship Task Force is not holding a spring symposium. The Task Force is still trying to identify ways to have a guardianship program similar to the CASA program, but with the current economic situation it is unlikely to see funding from the state. Also, Judge Henderson reported to the Chief Justice on the Committee's activity on guardianships, including the education session, survey of the courts, and the liaison with the Guardianship Task Force.
8. Update from the State Bar Probate Section. An update was not available for this meeting.
9. Review of Benchbook sections.
 - a. The Committee agreed that no further amendments were needed to section 4.03(a).
 - b. Section 1.20 – Deleted proposed language in 1.24(A)(4) and moved it to (D)(2). Revised 1.24(D) to keep paragraph one and use IC 29-1-8-1.5 for the contents of the affidavit and other procedural matters. Mention those instances when it does

not apply at the beginning of the section. Deleted part on real property in summary administration section. Revised section 1.25 to keep the notice only and delete the other forms.

- c. Section 1.30 – Delete proposed forms on safety deposit boxes and fiduciary bond form.
- d. Section 1.70 – The committee requested including the case of Indiana Dept. of Revenue v. Estate of Doris Parker (49T10-0812-TA-72) to this section.
- e. Section 1.80 – There were no changes made to this section.
- f. Committee requested that order to show cause be added to the guardianship section.
- g. Next meeting the Committee will review sections 1.50, 1.60, 3.00, 6.00, and 7.00.

10. 2010 meetings.

Friday, August 6, 2010 at 10 a.m.

Friday, November 5, 2010 at 1:30 p.m.

All meetings will be held at the Indiana Judicial Center